



14-II04
D14-49
SPREADSHEET
#617

Police Department • 82 E. University Avenue • Champaign IL 61820 • (217) 351-4545 • fax (217) 403-6904 • www.ci.champaign.il.us

MEMORANDUM

To: Officer Matt Rush, #7114
From: Chief Anthony Cobb *ACobb*
Date: April 14, 2015
Subject: Letter of Suspension – 14-II04

This Letter of Suspension is being issued based upon your actions during a call for service and subsequent arrest on April 11, 2014. In this incident (C14-03017), you were found to have unnecessarily used profanity toward an individual. Your actions violated Department Rule 3(B)(1) / Courtesy, which states, "Employees shall be courteous in their conduct and communication to citizens and other City employees. Employees shall be tactful in the performance of their duties, control their tempers, and exercise reasonable patience and discretion. In the performance of their duties, employees shall not use harsh, rude, overbearing, abusive, violent, profane, or indecent language or conduct; and shall not express any prejudice or insulting language concerning race, sex, religion, politics, national origin, lifestyle or similar personal characteristics."

You also failed to document grabbing the arrestee's arm to move her along as well as your strikes to her legs. Your actions violated Department Rule 5(A)(2) / General Operations, which states, "Each employee shall provide aid or furnish information consistent with police duty in accordance with law and departmental directive."

As a result of your actions, you are receiving a 3-day suspension without pay. This suspension is in accordance with Arbitrator Dichter's ruling on April 3, 2015. Per this ruling, your suspension will be documented and considered already served.

A repeat violation may result in more serious disciplinary action. Removal of this discipline from your employee file will be in accordance with the terms of the current labor agreement.

ACKNOWLEDGMENT

I, Officer Matt Rush, hereby acknowledge receipt of the above Letter of Suspension.

MR 7/24

Officer Matt Rush

05/08/15

Date

Cc: DC Gallo
Lieutenant Clark
Lieutenant Myers

Lieutenant Rea
Professional Standards
HR Department

INVESTIGATION FORM 2A

TO: DR. MAT RUSH
EMPLOYEE

FACT FINDING INTERVIEW NOTICE AND ORDER

1. *Notice.* On MAY 8TH, 2014, at 1:30 o'clock P.m., you are ordered to appear at the location described below to be interviewed concerning an alleged incident described below.
2. *Purpose.* The purpose of this interview is to investigate whether or not this incident occurred as alleged. Any statement that you make may be used as evidence of misconduct and as the basis for charges for suspension or discharge.
3. *Format.* At the interview, you will be ordered to answer all questions fully and truthfully which bear on your employment with the City of Champaign. The interview may be tape-recorded or transcribed by a court reporter. I or another representative of the City will ask the questions. We are also interested in hearing from you regarding any mitigating circumstances that may bear on this incident.
4. *Your Rights.* You may have your union representative present at the interview.
5. *Your Rights – Fire and Police Only.* If you are a fire fighter as defined in 50 ILCS 745/1 et seq., or if you are a peace officer as defined in 50 ILCS 725/1 et seq., you have all the rights in the applicable Act which is attached to this notice. Additional information is also provided to you on the attached form.
6. *Location of Interview:*

CHAMPAIGN POLICE DEPT.

CHIEF'S CONFERENCE ROOM

4/25/14
Date

[Signature]
Department Head

Incident to Be Investigated: FAILURE TO COMPLETE + SUBMIT ACCIDENT REPORT
+ IVE ON A TIMELY BASIS; APRIL 11, 2014 USE OF FORCE INCIDENT
AT [REDACTED], CHAMPAIGN, IL.

INVESTIGATION FORM 2B

NOTICE IN COMPLIANCE WITH THE UNIFORM PEACE OFFICERS' DISCIPLINARY ACT [FIREFIGHTERS' DISCIPLINARY ACT]

TO: OFF. MATT RUSH
(Police Officer or Firefighter)

A. Nature of Investigation

You are advised that an investigation has commenced concerning your conduct in connection with the following described incident:

FAILURE TO COMPLETE + SUBMIT ACCIDENT REPORT + IIR ON A
TIMELY BASIS IN VIOLATION OF RULE 2(C); USE OF FORCE
INCIDENT AT [REDACTED], CHAMPAIGN, IL, ON 4/11/14
IN VIOLATION OF RULES 5(A)(2) AND 5(B).

B. The names of the complainants are:

CHIEF ANTHONY COBB

C. Office in Charge of Investigation:

Name JOE SWANSON; Rank LIEUTENANT;

Unit PROFESSIONAL STANDARDS

D. Interrogators:

Name	Rank	Unit
<u>JOE SWANSON</u>	<u>LIEUTENANT</u>	<u>PROF. STANDARDS</u>
<u>TOE HARRIS</u>	<u>LIEUTENANT</u>	<u>PATROL</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

E. Persons Present During Interrogation (Other than Interrogators)

OFC. MATT RUSH
FED ATTY. TAMARA CUNILLI

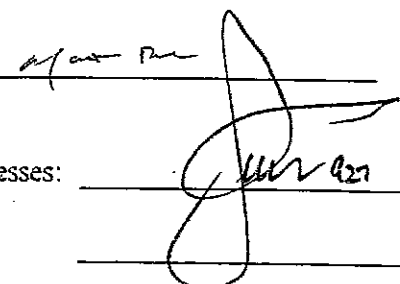
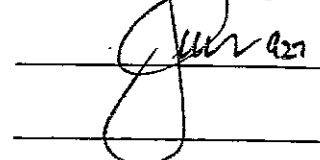
Administrative Rights

1. Admissions. Admissions made by you in the course of any interrogation may be used as evidence of misconduct or as the basis for charges seeking suspension, removal or discharge.
2. Counsel. You have the right to be represented at this or subsequent interrogations by legal counsel of your choosing. You may request such counsel at any time before or during the interrogation. When such request is made, no interrogation shall proceed until reasonable time and opportunity are provided to you to obtain counsel.
3. Record. A transcript or copy of the record of this interrogation is available to you without charge upon your request.

F. Refusal to Answer

You have an obligation to truthfully answer all questions. Your answers or responses constitute an official report. If you persist in a refusal to answer questions after an order of a superior officer to answer, you are advised that such refusal constitutes a violation of Departmental Rules and may serve as a basis for suspension, removal or discharge or other disciplinary actions. You are further advised that by law, any admission made by you during the course of this interrogation cannot be used against you in any subsequent criminal proceeding.

THE UNDERSIGNED ACKNOWLEDGES THAT A COPY OF THIS NOTICE WAS RECEIVED BY HIM/HER.

 Time 0800 Date 04/28/14
Witnesses: 

Police Department
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MEMORANDUM

TO: Deputy Chief Gallo
Lt. Jon Swenson

FROM: Lt Tod Myers

DATE: May 5, 2014

SUBJECT: Use of Force Review C14-3017

SUMMARY:

This Use of Force Review pertains to a fight call at [REDACTED]. As a result of our response to the incident 13 officers and 11 squad cars responded including a training car and a two man car. The incident resulted in Kissica Seets and [REDACTED] being sprayed with Oleoresin capsicum and subsequently both were arrested for domestic battery and other charges. The reported force used during this incident, as described in the Use of Force Incident Report form, involved the use OC spray, physically restraining a subject, and applying a spit hood.

Upon my assessment of the force application, I would concur with Sergeant Yandell that officers were within policy to apply these. Sergeant Yandell did speak with me and said he had some concerns about portions of the video specifically a knee strike that Officer Rush delivers that is not documented. I reviewed the reports and videos and share his concern in addition to others. Those concerns include verbal communication skills while at the scene, handling of an arrestee in handcuffs and a knee strike to a handcuffed arrestee that was not documented in a police report.

The video and/or audio from squads 30,26,45,39,28,55,46,56,43,37 and 57 were reviewed with four videos which I have marked as "administrative" on the video system. These videos belong to Officer Rush (37), Officer Art Miller (57), Officer Jeff Creel (39) and Officer Tina Haugen's (46). Officer Rush's squad video system does not show anything of value as his squad car is positioned in a manner away from the incident however his audio is activated and captures his conversation with a female believed to be Kissica Seets, the arrestee. Officer Miller arrives on scene and positions his squad car where he faces the incident and his audio is activated. Officer Creel has a second arrestee and is talking to her however his squad is positioned in a manner which shows Officer Rush placing Kissica in a marked squad. Officer Haugen's video system captured the audio portion while Kissica is being placed in Officer Canales squad car.

This memorandum is being completed in chronological order as the event occurred beginning with Officer Rush's audio, Officer Art Miller's video and audio, Officer Jeff Creel's video and finally Officer Haugen's audio. None of these are complete transcripts however will include the audio and video relevant to this review and the policy issues that have been identified.

Officer Rush's squad video and police report:

Officer Rush arrived on scene at 22:41:27. When he arrived, according to his report, he witnessed [REDACTED] throw a chair at Kissica striking her in the side causing her to fall to the ground. When Officer Rush arrived he is heard talking to presumable, Kissica. He asked her about decontamination from the OC and tried to calm her down. He handled himself very professionally and even detained a male who interjected himself into the incident. He clearly explained the circumstances to the male and released him with no issues.

22:49:27

Kissica: "Was you all in my car?"

Officer Rush: "No it was locked."

22:49:48

Kissica: "You better stop lookin at me (unintelligible)"

Officer Rush: "If you're gonna tell me what to do, take the booze out of the front seat and put it somewhere else. How about that?"

22:50:12

Kissica: begins yelling at an unknown male using derogatory language

Officer Rush: "Do you eyes hurt? Do your eyes hurt? You want that again? Why do you keep fighting with people?"

22:50:20

Officer Rush: "I'm going to tell you right now you are not going to throw shit at me. You understand that? You are not going to throw shit at me. You understand that?"

**Nothing in police report about Kissica actually or seemingly going to throw anything at officers.

22:50:29

Kissica: "My leg is really hurtin"

Officer Rush: "I don't care about your leg, you're not going to throw anything at me do you understand?"

22:50:33

Kissica: "Would you please get off my arm?"

Officer Rush: "Don't pull away." You will go to jail tonight." "I'll tell you right now, you put your ass in that car seat and you will go to jail for DUI. Keep that in mind."

**Nothing in police report to explain what Kissica was doing and what actions Officer Rush was taking to explain why Kissica would ask Officer Rush to get off her arm.

22:50:48

Officer Rush: "You understand right now I'm looking for a reason and you just gave me one so keep that in mind."

22:50:59

Officer Rush: "Uh huh newbee. Make sure you get to bed early tonight so you can get to work tomorrow OK."

Kissica: "I don't work."

Officer Rush: "I know you don't."

22:51:26

Kissica: "Bitch ass newbie"

Officer Rush: "Uh huh keep talking"

Kissica: "Fuck you"

Officer Rush: "Keep talking"

Kissica: "Yeah and then what?"

Officer Rush: "Keep talking. Why don't you just limp away?"

22:52:07

Kissica and another female are talking as Kissica makes the comment about going to the hospital for her leg and telling them the Champaign Police did it. Officer Rush begins to laugh.

22:52:35

Officer Rush: "Making friends everywhere I go."

Officer Voges: "Yeah. You are good at that."

22:53:05

Kissica is commenting about her leg and not being able to go to work on Monday and the Champaign Police did it to her.

Officer Rush: (laughing) "Your behavior did it not us. Keep that in mind."

22:53:09

Officer Rush mutes his audio transmitter.

Officer Miller's Video and Audio:

Officer Miller arrived on scene at 22:42:56. His camera is positioned at the front yard of 1302 Sunset where the majority of the incident occurred. Much, but not all, of the verbal interaction captured on Officer Rush's audio is also heard on Officer Miller's. I will begin with portions of Officer Miller's audio where I left off above.

22:53:24

Kissica: "What are you waiting for?"

Officer Rush: "Waiting to find a reason to take you to jail."

Kissica: "What's your reason?"

Officer Rush: "I'll find one."

Kissica and another female begin talking about the officers and asking if they are "newbees" or new officers. One of them asks Officer Rush how long he has been on.

22:55:02

Officer Rush: "5 years"

Kissica: "You're still a newbie"

Officer Rush: "5 years towards my pension, my retirement, and your still (unintelligible.)"

22:55:49

Officers walk out of the yard towards the street and within seconds, return and Officer Rush placed Kissica under arrest.

22:56:47

Officer Rush: "We are done talking. Let's go." They begin to walk and Kissica can be seen limping in the video.

Officer Rush: "Don't start that limping stuff you're fine."

Kissica: "I've been limping bitch." As they move forward about 4-5 steps

22:56:53

The squad video showed Officer Rush pull Kissica forward while handcuffed. Kissica lunged forward from being pulled and tried to regain her balance favoring the leg she claimed was injured. You can hear voices (unknown who) in the crowd questioning "Did you have to grab her like that?"

In Officer Rush's police report he indicated that Kissica was attempting to pull away in an attempt to speak with her family members. The video does show Kissica turn her body towards the people in front of the house for a brief second then her body turns back forward as Officer Rush pulls her.

22:57:01

Kissica spits on Officer Rush. Off camera/ sound only.

Officer Creel's video

Officer Creel is on scene and interviewing Lela who has also been arrested. His interview with her can be heard and his squad is positioned where Officer Canales' car is in view. Officer Canales' car is the transport car for Kissica which is where Officer Rush is escorting her.

22:57:13

Officer Rush is seen bringing Kissica around the front of Officer Canales Squad car. Kissica is in front of Officer Rush and he has his arm around her head or neck area as he indicated in his report.

22:57:20

Officer Haugen opens the rear car door for Officer Rush. Officer Rush, who is still behind Kissica, pauses at the door frame for a second then in one motion uses his right leg to push Kissica into the vehicle. Officer Rush remains at the door frame for a few seconds.

22:57:25

Officer Rush is doing something with Kissica inside the squad car when he delivers a knee strike towards Kissica. Officer Haugen then steps in and takes over Kissica. Officer Rush steps back while bringing his hand up to his face.

Officer Rush's police report says that "I escorted Kissica to Officer Canales squad car without further incident." There was clearly more going on at this point than a compliant arrestee otherwise why would Officer Rush deliver the knee strike as shown in the video. Based on his report and the video, a determination whether the knee strike was justified can't be determined. The details of Kissica's actions inside the car and Officer Rush's reason and subsequent use of the knee strike are not included in his report.

Officer Haugen's Audio

Officer Haugen was one of the first officers to arrive at this call. The relevant portion of the audio began when Kissica is placed in Officer Canales squad car. The audio captured Officer Haugen, Officer Rush, and Kissica

22:57:16

Officer Haugen opened the rear door of the squad car while Officer Rush is holding Kissica.

Kissica: "I can't breath."

Officer Rush: "Get in the car. Get in the car."
Kissica: "I'm trying to get in the car"
Officer Rush: "Pull your legs in."
Officer Haugen: "Get in the car."
Kissica: "I swear to God I'm trying to get in the car."
Officer Haugen: "Get in the car now."
Kissica: "I'm trying to get in the car, why did he just kick me?"
Officer Haugen: "You just spit in his face."

When I first watched the video and was trying to determine why Officer Rush delivered the knee strike, I interviewed Officer Haugen. I showed her the video and asked what Kissica was doing inside the car at the time. Officer Haugen replied that Kissica was in the seated position with her legs partially outside the door. She explained that Kissica was kicking at officers and not attempting to get inside the car. Officer Haugen said that although she didn't see Officer Rush deliver the knee strike, she is positive Kissica was kicking because she herself got kicked and had a small bruise on her leg.

Factors to Consider:

- 1) The first officers (Henry and Schweska) were on scene at approximately 22:37:29. According to Officer Schweska's report, he witnesses Kissica strike [REDACTED] then the two began physically fighting in front of him. An order to stop fighting was given and OC deployed. Judging from the video and the reports, it appears the incident was chaotic at first by the number of people at the party and officers on scene. Based on Officer Schweska's observations, probable cause to detain Kissica was present however it took approximately 18 minutes before she was taken into custody. There doesn't appear to be one specific person who took control of the scene and directed officer's actions.
- 2) The continued banter between Officer Rush and Kissica went on for several minutes in the presence of other officers. Nobody recognized the need to intervene and disengage Officer Rush and Kissica.
- 3) Kissica spit directly in Officer Rush face. Afterwards, he continued to control Kissica despite having a biological hazard on him. Another officer should have stepped in and taken control of Kissica to allow Officer Rush to decontaminate himself while separating himself from the situation.

FINDINGS:

Officer Rush did nothing in his verbal interaction with Kissica arrest to control the situation. In fact, the back and forth banter only fueled both Officer Rush and Kissica to allow it to continue. Most of the dialogue provided in this memorandum demonstrates this banter. There is no question that Kissica was not overly cooperative during this incident however there are specific points in their interaction where Officer Rush makes comments that are inappropriate that I believe violate department rules.

- A. Champaign Police Department Rule 3 Behavior Towards Others Section B Courtesy. This section states:

"Employees shall be tactful in the performance of their duties, control their tempers, and exercise reasonable patience and discretion. In the performance of their duties, employees shall not use harsh, rude, overbearing, abusive, violent, profane or indecent language or conduct."

From listening to the audio portion of the interaction between Officer Rush and Kissica, it appears to me that Officer Rush is allowing Kissica, through her dialogue, to irritate him. I say this from listening to his voice tone increase and he becomes more direct with her when she focuses in on him. He makes several comments like:

1. "Do your eyes hurt, do your eyes hurt, do you want that again."
2. "I'm going to tell you right now you are not going to throw shit at me."
3. "I'm looking for a reason right now and you just gave me one."
4. "I'm waiting for a reason to take you to jail." "I'll find one."

In addition to the above comments, Officer Rush makes additional comments that have no bearing on the situation and have no purpose.

1. "Make sure you get to bed early so you can get to work tomorrow OK."

B. Champaign Police Rule 5 Operations Section C (1) Persons in Custody states:

"Officer's shall not mistreat persons who are in their custody by violating a provision of the law or department directive"

After Kissica was taken into custody and handcuffed, Officer Rush walked her to a squad car. After taking a few steps, Officer Rush jerked Kissica forward. His report would suggest that Kissica was pulling away in an attempt to speak to family members. From watching the video, I could not see where Kissica was "pulling away" however she does turn her body towards her family then turns back forward. I did not see where Kissica was pulling or continually stopping once she was being led to the squad car.

Officer Rush knew that Kissica had a reported injury to her leg. I say he knew this because Officer Rush saw her get hit by a chair, she made comments about her leg hurting during their interaction, Officer Rush made a comment to Kissica to "just limp away." When she was taken into custody and they began walking forward she is still limping. Once Officer Rush jerks her forward, she is stumbling to regain her balance while still favoring the leg she claimed was injured.

C. Champaign Police Rule 5 Operations Section D (1) Physical and Deadly Force states:

"The use of physical force to accomplish a police task is restricted by law and department directive to that force which is reasonable and necessary under the circumstances."

When Officer Rush placed Kissica in the squad car, the video showed him delivering a knee strike to Kissica while she is inside the squad car. There was no video available that showed what was actually occurring inside the car. When I spoke to Officer Rush following this incident, I asked him about the knee strike. He said he doesn't remember doing it but would complete a supplemental report if in fact he did.

A knee strike to a handcuffed suspect does not automatically make the strike wrong. In this case, the lack of detail of Kissica's actions and failure to document the force in the report are the issues.

**Fact Finding Interview
Officer Matthew Rush
May 15, 2014**

JS: Lieutenant Jon Swenson
DS: Lieutenant David Shaffer
TM: Lieutenant Tod Myers
MR: Officer Matthew Rush
TC: Tamara Cummings, FOP Representative

JS: Okay, today's date is Thursday, May 15, 2014. The time is approximately 1:33 p.m. For identification purposes, my name is Lieutenant Jon Swenson. Also present in the room at this time are Lieutenant Tod Myers, Lieutenant Dave Shaffer, FOP Attorney Tamara Cummings, and Officer Matt Rush. Officer Rush, before we get started I need to advise you that this interview is being recorded. I also need to advise you that you are hereby ordered to respond to all questions truthfully and fully that bear on your employment with the Champaign Police Department, do you understand that order?

MR: Yes, I do.

JS: Any admission made by you during the course of this interview may be used as evidence of your misconduct and may form the basis for charges, charges in seeking discipline against you up to and including termination, do you understand that?

MR: Yes.

JS: You have the right to a legal representative of your choosing, do you understand that?

MR: Yes.

JS: And you have elected to have Ms. Cummings serve as your legal representative, correct?

MR: Correct.

JS: And you were served with and provided a copy of the Fact Finding Notice regarding this interview, correct?

MR: Yes.

JS: Okay. Were you on duty and working on March 3rd, 2014?

MR: I was.

JS: At approximately 2240 hours that evening, were you dispatched to the 1100 block of West Bradley to handle a hit and run accident?

MR: Yes.

JS: And upon your arrival did you speak with the victim driver?

MR: I did.

JS: And did the victim driver then describe to you the events surrounding the accident?

MR: Yes.

JS: Did the victim driver also provide you with a description of the suspect vehicle, including the registration information?

MR: Yes.

JS: Did you locate the suspect vehicle a short time later?

MR: I did not, but Officer Butler did.

JS: Okay. And do you recall where that was at?

MR: Uh, somewhere in south Garden Hills, I can't tell you exactly . . . maybe [REDACTED] I can't remember.

JS: I believe it would have been [REDACTED] Does that . . .

MR: Sounds about right, yeah.

JS: . . . sound correct? Okay. And did you and Officer Butler locate the suspect a short time after you located the vehicle?

MR: Yes.

JS: Okay. Do you recall who you identified the driver of the suspect vehicle as?

MR: Today I cannot. But obviously if I wrote a report refresh my memory.

JS: Okay. Would the name have been [REDACTED]?

MR: Yes, correct.

JS: Okay. Did you ultimately issue [REDACTED] a traffic citation for Failure to Reduce Speed in order to avoid an accident?

MR: Correct.

JS: And you drew a file number for the accident, correct?

MR: Yes.

JS: And would that file number have been C14-1781?

MR: Correct.

JS: Okay. Did you later complete the report for that accident?

MR: I did.

JS: And do you recall specifically when you completed it?

MR: I do not. I would assume sometime in my working week. I don't know what day of the week was that?

JS: I believe that was a Monday.

MR: It was a Monday?

JS: I believe so.

MR: It should have been done that day then.

JS: Okay.

MR: . . . with that calendar and make sure it was a Monday but it would have been done prior to the end of my work week.

TC: Is Monday the last day of your work week?

MR: Monday is my Friday, correct.

JS: . . .

DS: The third is a Saturday.

JS: I stand corrected. It would have been Saturday. So you think prior to the end of your work week on that Monday then? The fifth. . .

MR: Yeah.

JS: . . . it would have been done. Okay. Did you use the accident reporting system IyeTek to complete the report?

MR: Yes.

JS: Okay. Do you recall which computer you used to complete the report?

MR: It would have been something in the building. I have a hard time typing on my in car computer. I can't get comfortable so I usually do it on my time in here.

JS: Okay. So likely in the report writing room, one of those computers?

MR: Right, one of those, yes it would have in report writing.

JS: Okay. Do you remember, upon completing the report, did you properly save and submit it? Did you click that box to do so?

MR: ... validate?

JS: Yes.

MR: Yes.

JS: Okay. Did you later receive an email from Lieutenant Myers on about March 12th asking about the status of the report and advising you that the report had not been yet submitted to records?

MR: I did.

JS: And in that email, did Lieutenant Myers also advise you that one of the parties involved in the accident had reported to him that she had not yet received the accident exchange information from you?

MR: I believe that's what the email said.

JS: Okay. Shortly after receiving that email, did you again complete the report?

MR: Yes, I did that on my days off.

JS: Okay. And you then informed Lieutenant Myers that you had completed the report. . .

MR: Correct.

JS: ... shortly thereafter? Did you take any steps at that time to ensure that both of the vehicle drivers were provided with the accident exchange information?

MR: I think I sent out a uh, I usually send the info exchange through the mail so I believe I would have done that but I don't remember.

JS: Okay. Do you recall at what point in this process, I think we've now discussed you completing and submitting this report through IyeTek twice. Um, at what point did you turn the traffic citation in?

MR: Uh, apparently I did not cause you guys found it in my ticket tin.

JS: Okay. On the March 12th incident when Lieutenant Myers brought to your attention that the report had not yet been submitted, did you take, undertake any efforts to look for the traffic ticket at that point in time?

MR: No.

JS: Okay. Skipping ahead, on or about April 11th of 2014, did you have some communication with Sergeants Vogelzang and/or Ramseyer about the fact that the traffic citation had been located in your ticket tin by Lieutenant Shaffer and that the accident report still had not been submitted to the Records Division?

MR: I think it was an email I received, if I'm not mistaken.

JS: Okay. And what did you do in response to that information?

MR: I redid the report. And submitted it again and verified with the sergeant, I can't remember who, that the report was in the system.

JS: Okay, so that would have been the third time?

MR: Correct.

JS: Okay. And you believe that it was after the second time that you submitted the exchange information to both drivers?

MR: I don't remember Lieutenant, I really don't.

JS: Okay.

MR: It's been a while.

JS: Well I know on, I believe it was March 31st, the victim driver, [REDACTED] submitted a FOIA request for the report and indicated at that time she still had not received the accident . . .

MR: . . . that's how this has come to life that she didn't . . .

JS: . . . Okay.

MR: . . . the report wasn't done because of that FOIA request.



City of CHAMPAIGN

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To: Chief Anthony Cobb
From: Lt. Jon Swenson
Date: May 28, 2014
Subject: Internal Investigation / 14-II04

INCIDENT SUMMARY

On Friday, April 11, 2014, at approximately 2225 hours, Champaign police officers responded to 421 Fairview Drive following a report that several subjects were actively fighting in the front yard. The incident was reported by [REDACTED], it should be noted, is the mother of two of the two individuals who were later determined to be the primary combatants, KISSICA SEETS and [REDACTED].

Officers Cully Schweska and Marshall Henry were riding together as a two-man unit that evening and they were the first officers to arrive on scene. Upon their arrival they observed several subjects, including KISSICA and [REDACTED], standing in the street directly in front of 421 Fairview Drive.

Officer Schweska approached KISSICA and [REDACTED] to speak with them but they responded to his inquiries by yelling at him and he ultimately had no success in gathering information from them about the nature of the problem. To complicate matters, as Officer Schweska spoke with KISSICA and [REDACTED] a male subject, later identified as [REDACTED] (son of [REDACTED] and nephew of KISSICA), emerged from the residence at [REDACTED] and began to interfere with Officer Schweska's attempts to restore order. [REDACTED] initially yelled "fuck the police," and he followed that up by stating "I hate the police."

As Officer Schweska diverted his attention to address J [REDACTED], KISSICA stepped towards [REDACTED] and struck her in the face with a closed fist. After KISSICA struck [REDACTED] the two of them engaged in an active fist fight. Officer Schweska ordered both women to stop fighting, but they ignored his order.

After requesting additional units to the scene, Officer Schweska attempted to stop the fight by deploying Oleo Resin Capsicum (OC) spray. He directed a short burst of OC spray towards both females, and after he did so KISSICA and [REDACTED] immediately separated from one another and stopped fighting.

Due to the fact that Officers Schweska and Henry were largely outnumbered, they elected to wait until additional units arrived on scene before attempting to detain KISSICA and [REDACTED]. Unfortunately, while Officers Schweska and Henry awaited those officers [REDACTED] picked up a chair and threw it at KISSICA. The chair struck KISSICA in the side and knocked her to the ground.

Additional officers began arriving on scene at about this time, and among them were Officers Haugen, Canales, Creel, Cowan, Rush, and Voges. Following their arrival, KISSICA, [REDACTED] and [REDACTED] were detained and secured. Efforts to decontaminate KISSICA and [REDACTED] then began, as did attempts to interview those on scene.

Following an on-scene investigation, the officers determined:

- That the group had gathered at [REDACTED] to celebrate [REDACTED] birthday.
- That the incident leading to their response began when KISSICA instigated an argument with [REDACTED] boyfriend, [REDACTED]. KISSICA, apparently upset by the belief that [REDACTED] was sleeping with another woman, began the argument by repeatedly calling [REDACTED] a "bitch."
- That the argument escalated when [REDACTED] responded by also calling KISSICA a "bitch."
- That the argument turned physical when KISSICA responded by throwing a lit cigarette in [REDACTED] face and also taking a swing at him.
- That KISSICA was then joined in her efforts by [REDACTED] and [REDACTED], both of whom reportedly "jumped on" [REDACTED]
- That KISSICA and [REDACTED] became involved in a physical altercation when [REDACTED] defended [REDACTED].

Following the on-scene investigation both KISSICA and [REDACTED] were arrested for the offense of Domestic Battery.

KISSICA was arrested and secured in handcuffs by Officers Haugen and Rush. Although KISSICA initially resisted efforts to handcuff her, she was ultimately handcuffed without incident.

Following KISSICA'S arrest, Officers Haugen and Rush attempted to escort KISSICA to a nearby squad car. According to both officers, KISSICA initially refused to walk on her own and instead attempted to turn and speak with family members.

In response to KISSICA'S refusal, Officer Rush pulled KISSICA by her arm. When he did so, KISSICA took a deep breath and then spit directly into Officer Rush's face. Officer Rush then wrapped his arm around KISSICA'S head and cradled her jaw so that she could not spit at/on him again and continued the escort.

Upon arriving at the squad to which she had been escorted, KISSICA refused to seat herself. KISSICA was assisted into the car by officers but, once seated, pushed and straightened her legs and refused to place them inside of the vehicle.

Following KISSICA'S placement in the transport area she turned her head towards Officer Haugen and spit at her. The spit landed on Officer Haugen's vest carrier. Officer Haugen then retrieved and placed a "spit hood" over KISSICA'S head to prevent her from spitting on anyone else.

KISSICA was transported from the scene by Officer Canales. During transport KISSICA informed Officer Canales that she had asthma and was having difficulty breathing so Officer Canales transported her to Presence Covenant Medical Center for treatment. After receiving treatment at the hospital KISSICA was transported to the Champaign County Jail and released to the custody of correctional staff.

[REDACTED] was arrested without incident by Officer Creel but complained of discomfort as a result of OC spray. Pro Ambulance was summoned to and treated [REDACTED] at the scene. Following treatment, [REDACTED] was transported by Officers Creel and Cowan to the Champaign County jail and released to the custody of correctional staff.

USE OF FORCE REVIEW

As with every use of force incident, this incident was the subject of an administrative review. The administrative review in this case was comprehensive and consisted of a review of all available information, to include the written reports and available video evidence. It also included the interview of a witness officer.

The administrative review served to determine whether or not the force applied in this case was reasonable, necessary, appropriate, and justified under current laws and the policies of this Department. To that end, Lt. Myers documented his findings in a memorandum which he submitted on May 5, 2014.

Please see Lt. Myers' memorandum, which is attached, for documentation of the information he learned, as well as the observations he made, during his review.

Lt. Myers' findings are summarized as follows:

1. That Officer Schweska's use of OC spray to separate KISSICA and [REDACTED] and end their physical dispute was consistent with Department policy.
2. That the use of physical restraint techniques and handcuffs by the officers involved in this incident were consistent with Department policy.
3. That the placement of a "spit hood" on KISSICA was consistent with Department policy.
4. That Officer Rush made several unprofessional and inappropriate comments while interacting with KISSICA at the scene, some of which involved the use of profanity, and those comments were in violation of the Department Rules.
5. That Officer Rush pulled/jerked KISSICA by the arm when she did not immediately respond to his attempts to escort her to a nearby squad car and that his actions did not appear to be necessary under the circumstances.
6. That Officer Rush used his knee to push or nudge KISSICA into the squad car and that his actions were not properly documented in his police report.
7. That Officer Rush then delivered a knee strike to KISSICA after she was placed in the squad car and that use of force was not properly documented in his police report. (Note – Lt. Myers expressed concern over the knee strike but made no formal finding as to its' reasonableness).

INITIATION OF INTERNAL INVESTIGATION

On April 21, 2014, I was directed to open an internal investigation and to complete a review of the incident that culminated in the arrest of KISSICA SEETS and [REDACTED] SEETS on April 11, 2014.

During my investigation into this matter I read and reviewed all of the police reports that were submitted in this matter; I reviewed the available audio and video evidence; I reviewed Lt. Myers' memorandum; and I conducted a Fact Finding Interview with Officer Matt Rush.

FACT-FINDING INTERVIEW

On April 25, 2014, I served Officer Rush with a "Fact Finding Interview Notice and Order." That document served as a written order for Officer Rush to report for an interview relative to this investigation at 1:30 p.m. on Thursday, May 8, 2014. I also contacted F.O.P. Attorney Tamar Cummings by telephone, informed her of this investigation and the pending interview, and arranged for her to be present at the interview to represent Officer Rush in this matter.

On May 6, 2014, Ms. Cummings contacted me by phone and informed me that for "work reasons" she would be unable to appear on May 8, 2014 to represent Officer Rush. Ms. Cummings indicated that we could either re-schedule the interview, or she could arrange for another attorney to appear on her behalf to represent Officer Rush on May 8, 2014.

After speaking with Ms. Cummings I contacted Officer Rush to determine his preference in this matter. Officer Rush indicated that he preferred to re-schedule the interview and to retain Ms. Cummings as his representative.

The interview was re-scheduled and conducted on May 15, 2014. Lt. Myers and Lt. Shaffer were both present with me during the interview. Ms. Cummings appeared and served as Officer Rush's legal representative during the interview. The interview was recorded, and a transcript of the interview is attached to this memorandum.

RELEVANT POLICY ISSUES AND DEPARTMENT RULES

During my investigation into this matter the following policy issues were examined:

USE OF FORCE

The use of force is governed by Champaign Police Department Policy 1.3, titled "Use of Force." The following excerpts from Policy 1.3 governed the officers' use of force in this instance.

1.3.1 FORCE NECESSARY TO ACCOMPLISH LAWFUL OBJECTIVES

- (A) State law and the City of Champaign have entrusted its police officers with the unique powers and authority designated to assist them in performing their duties. Officers, under certain circumstances, have the right to apply force, including lethal force, on another human being. Such application will be based upon the reasonable belief that such force is warranted and justified based upon current laws and the policies of this Department.
- (B) An officer may use force in the performance of his duties under the following circumstances:
 - 1. To prevent or terminate the commission of an offense.
 - 2. In self defense or defense of another.
 - 3. To effect the arrest of an offender, including those resisting arrest or attempting to flee from arrest or custody.
 - 4. To prevent a person from injuring themselves.

The following Department Rules are also relevant to this investigation:

RULE 3(B)(1) / COURTESY – Employees shall be courteous in their conduct and communication to citizens and other City employees. Employees shall be tactful in the performance of their duties, control their tempers, and exercise reasonable patience and discretion. In the performance of their duties, employees shall not use harsh, rude, overbearing, abusive, violent, profane, or indecent language or conduct, and shall not express any prejudice or insulting language concerning race, sex, religion, politics, national origin, lifestyle, or similar personal characteristics.

RULE 5(A)(2) / GENERAL OPERATIONS – Each employee shall provide aid or furnish information consistent with police duty and in accordance with law and departmental directive.

RULE 5(C)(1) / PERSONS IN CUSTODY – Officers shall not mistreat persons who are in their custody by violating a provision of law or departmental directive.

RULE 5(D)(1) / PHYSICAL AND DEADLY FORCE – The use of physical force to accomplish a police task is restricted by law and departmental directive to the force which is reasonable and necessary under the circumstances.

FINDINGS

1. I find that Officer Schweska's use of OC spray was within Department policy.
2. I find that the officers' use of physical restraint techniques and handcuffs were within Department policy.
3. I find that the placement of a "spit hood" on KISSICA was necessary, appropriate, and consistent with Department policy.
4. I concur with Lt. Myers and find that certain comments made by Officer Rush (as documented in Lt. Myers' memorandum), particularly those involving the use of profanity, were unprofessional and inappropriate. It is also my finding that those comments were in violation of Department Rule 3(B)(1).
5. I reviewed the video which shows Officer Rush pulling/jerking KISSICA by the arm when she did not immediately respond to his attempts to escort her. While I do not believe that Officer Rush's actions were necessarily excessive, I also don't believe that they were reasonable under the circumstances. Officer Rush was aware from personal observation that KISSICA had recently been struck by a chair and prior to her arrest KISSICA complained directly to Officer Rush that her leg was injured and bothering her. And although it does not relieve KISSICA of responsibility for her actions, I also believe that Officer Rush's actions played a role in KISSICA'S decision to spit at/on him.
6. I also reviewed the video which shows Officer Rush using his knee to push or nudge KISSICA into the squad car. Given KISSICA'S refusal to seat herself in the squad, I do not believe that Officer Rush's actions were excessive or unreasonable. I find no policy violation with regard to this particular action by Officer Rush.
7. I also reviewed the video which shows Officer Rush delivering a knee strike to KISSICA while she was handcuffed and at/in the back of the squad car. Based upon my review of the video, it is readily apparent to me that the knee strike was deliberate and intentional. The question to be answered is whether or not the knee strike was consistent with Department policy and necessary under the circumstances.

In her statement to Lt. Myers, Officer Haugen indicated that KISSICA was either kicking or kicking at Officer Rush when he delivered the knee strike to her.

Upon interview, Officer Rush likewise indicated that KISSICA was kicking her feet at him as he attempted to place her in the squad car. However, Officer Rush did not cite KISSICA'S actions as justification for striking KISSICA with his knee. He instead claimed that he had no recollection of delivering the knee strike at the time he wrote his report.

During his interview, Officer Rush admitted that the knee strike was "obviously a violation of policy." Officer Rush also conceded that there were other options which he should have considered prior to delivering the knee strike.

I concur with Officer Rush's assessment and likewise his use of a knee was in violation of Department policy. It is also my finding that Officer Rush failed to properly document his use of force in his official police report.

Accordingly, I find that Officer Rush committed violations of Rules 5(A)(2), 5(C)(1), and 5(D)(1).

DISCIPLINE HISTORY / OFFICER RUSH

Officer Rush has been employed with the Champaign Police Department since February 8, 2010, and his discipline history is summarized as follows:

<u>DATE</u>	<u>DISCIPLINE</u>	<u>EXPLANATION</u>
9/10/13	2-day Suspension	Multiple rules violations during his response to a domestic incident.
4/29/13	Counseling	Missed court.
12/15/12	Counseling	Use of force issue with a non-compliant subject.
9/27/14	Letter of Reprimand	Failed to use lights and siren during emergency response.
5/14/12	Counseling	Late for work.
2/9/12	Counseling	Discourtesy to witness.
1/30/12	Letter of Reprimand	Preventable accident.

[REDACTED]

Attachments: Report #C14-3017

Tiburon dispatch ticket #141010547

Memorandum / Lt. Myers

Fact Finding Interview Notice and Order

Transcript of Fact Finding Interview

**Fact Finding Interview
Officer Matthew Rush
May 15, 2014**

JS: Lieutenant Jon Swenson
DS: Lieutenant David Shaffer
TM: Lieutenant Tod Myers
MR: Officer Matthew Rush
TC: Tamara Cummings, FOP Representative

JS: Okay, today's date is Thursday, May 15, 2014. The time is approximately 1:33 p.m. For identification purposes, my name is Lieutenant Jon Swenson. Also present in the room at this time are Lieutenant Tod Myers, Lieutenant Dave Shaffer, FOP Attorney Tamara Cummings, and Officer Matt Rush. Officer Rush, before we get started I need to advise you that this interview is being recorded. I also need to advise you that you are hereby ordered to respond to all questions truthfully and fully that bear on your employment with the Champaign Police Department, do you understand that order?

MR: Yes, I do.

JS: Any admission made by you during the course of this interview may be used as evidence of your misconduct and may form the basis for charges, charges in seeking discipline against you up to and including termination, do you understand that?

MR: Yes.

JS: You have the right to a legal representative of your choosing, do you understand that?

MR: Yes.

JS: And you have elected to have Ms. Cummings serve as your legal representative, correct?

MR: Correct.

JS: And you were served with and provided a copy of the Fact Finding Notice regarding this interview, correct?

MR: Yes.

JS: Okay. Were you on duty and working on March 3rd, 2014?

MR: I was.

JS: At approximately 2240 hours that evening, were you dispatched to the 1100 block of West Bradley to handle a hit and run accident?

MR: Yes.

JS: And upon your arrival did you speak with the victim driver?

MR: I did.

JS: And did the victim driver then describe to you the events surrounding the accident?

MR: Yes.

JS: Did the victim driver also provide you with a description of the suspect vehicle, including the registration information?

MR: Yes.

JS: Did you locate the suspect vehicle a short time later?

MR: I did not, but Officer Butler did.

JS: Okay. And do you recall where that was at?

MR: Uh, somewhere in south Garden Hills, I can't tell you exactly . . . maybe 1417? I can't remember.

JS: I believe it would have been [REDACTED] e. Does that . . .

MR: Sounds about right, yeah.

JS: . . . sound correct? Okay. And did you and Officer Butler locate the suspect a short time after you located the vehicle?

MR: Yes.

JS: Okay. Do you recall who you identified the driver of the suspect vehicle as?

MR: Today I cannot. But obviously if I wrote a report refresh my memory.

JS: Okay. Would the name have been [REDACTED] [REDACTED]

MR: Yes, correct.

JS: Okay. Did you ultimately issue [REDACTED] a traffic citation for Failure to Reduce Speed in order to avoid an accident?

MR: Correct.

JS: And you drew a file number for the accident, correct?

MR: Yes.

JS: And would that file number have been C14-1781?

MR: Correct.

JS: Okay. Did you later complete the report for that accident?

MR: I did.

JS: And do you recall specifically when you completed it?

MR: I do not. I would assume sometime in my working week. I don't know what day of the week was that?

JS: I believe that was a Monday.

MR: It was a Monday?

JS: I believe so.

MR: It should have been done that day then.

JS: Okay.

MR: . . . with that calendar and make sure it was a Monday but it would have been done prior to the end of my work week.

TC: Is Monday the last day of your work week?

MR: Monday is my Friday, correct.

JS: . . .

DS: The third is a Saturday.

JS: I stand corrected. It would have been Saturday. So you think prior to the end of your work week on that Monday then? The fifth. . .

MR: Yeah.

JS: . . . it would have been done. Okay. Did you use the accident reporting system IyeTek to complete the report?

MR: Yes.

JS: Okay. Do you recall which computer you used to complete the report?

MR: It would have been something in the building. I have a hard time typing on my in car computer. I can't get comfortable so I usually do it on my time in here.

JS: Okay. So likely in the report writing room, one of those computers?

MR: Right, one of those, yes it would have in report writing.

JS: Okay. Do you remember, upon completing the report, did you properly save and submit it? Did you click that box to do so?

MR: . . . validate?

JS: Yes.

MR: Yes.

JS: Okay. Did you later receive an email from Lieutenant Myers on about March 12th asking about the status of the report and advising you that the report had not been yet submitted to records?

MR: I did.

JS: And in that email, did Lieutenant Myers also advise you that one of the parties involved in the accident had reported to him that she had not yet received the accident exchange information from you?

MR: I believe that's what the email said.

JS: Okay. Shortly after receiving that email, did you again complete the report?

MR: Yes, I did that on my days off.

JS: Okay. And you then informed Lieutenant Myers that you had completed the report. . .

MR: Correct.

JS: . . . shortly thereafter? Did you take any steps at that time to ensure that both of the vehicle drivers were provided with the accident exchange information?

MR: I think I sent out a uh, I usually send the info exchange through the mail so I believe I would have done that but I don't remember.

JS: Okay. Do you recall at what point in this process, I think we've now discussed you completing and submitting this report through IyeTek twice. Um, at what point did you turn the traffic citation in?

MR: Uh, apparently I did not cause you guys found it in my ticket tin.

JS: Okay. On the March 12th incident when Lieutenant Myers brought to your attention that the report had not yet been submitted, did you take, undertake any efforts to look for the traffic ticket at that point in time?

MR: No.

JS: Okay. Skipping ahead, on or about April 11th of 2014, did you have some communication with Sergeants Vogelzang and/or Ramseyer about the fact that the traffic citation had been located in your ticket tin by Lieutenant Shaffer and that the accident report still had not been submitted to the Records Division?

MR: I think it was an email I received, if I'm not mistaken.

JS: Okay. And what did you do in response to that information?

MR: I redid the report. And submitted it again and verified with the sergeant, I can't remember who, that the report was in the system.

JS: Okay, so that would have been the third time?

MR: Correct.

JS: Okay. And you believe that it was after the second time that you submitted the exchange information to both drivers?

MR: I don't remember Lieutenant, I really don't.

JS: Okay.

MR: It's been a while.

JS: Well I know on, I believe it was March 31st, the victim driver, [REDACTED], submitted a FOIA request for the report and indicated at that time she still had not received the accident . . .

MR: . . . that's how this has come to life that she didn't . . .

JS: . . . Okay.

MR: . . . the report wasn't done because of that FOIA request.

JS: So it likely would have been after the third time the report was completed that you actually sent them the exchange information?

MR: I would probably have to say yes, I don't recall though.

JS: Okay. So is it your contention that you completed the accident report within days of having responded to the accident in the 1100 block of West Bradley?

MR: Sometime within that Saturday till Monday.

JS: Okay.

MR: It would have been done here at post.

JS: Once you became aware on March 12th that that report hadn't been properly submitted, do you believe that there were other steps you could or and/or should have taken to confirm that the accident report had actual been submitted?

MR: Are you talking about the second time?

JS: Yeah.

MR: I should have verified with the sergeant that it went the second time.

JS: Okay.

MR: Or at least Lieutenant Myers.

JS: All right. Is there any reasonable explanation as to why the traffic citation sat in your ticket tin for 39 days?

MR: Reasonable? No. Other than I just forgot about it.

JS: Okay. So that was just an oversight on your part?

MR: Yeah.

JS: Okay.

MR: Yes.

JS: Alright. I'd next like to call your attention to an incident that occurred at [REDACTED] Drive in Champaign on April 11, 2014. That incident was captured in report #C14-3017. Were you on duty and working in your capacity as a patrol officer on that day?

MR: Yes.

JS: And did you respond to [REDACTED] on the report of a fight at that location?

MR: I responded whenever, I believe Officer Henry, requested more units for a fight or domestic situation.

JS: Okay. And upon your arrival at the scene did you observe [REDACTED] throw a chair at Kissica Seets and strike her in the side?

MR: I saw it hit her in the side but she didn't throw it.

JS: Okay.

MR: But, yes I did observe that.

JS: All right. During your interaction with Kissica did she claim that her leg had been hurt or injured during the altercation with [REDACTED]?

MR: Uh, I didn't remember that but I can't recall. I remember she was complaining about some sort of injury, but I know she wasn't bleeding. She was walking fine and obviously she'd been the offender in that domestic.

JS: Okay. Did you ultimately speak with Kissica about the incident that led to your response?

MR: I spoke to Kissica, but I was just kind of there more as scene security (be)cause there's still probably ten other intoxicated subjects there at the scene.

JS: Alright. But you had some level of interaction . . .

MR: Yes.

JS: . . . and conversation with Kissica?

MR: Yes.

JS: During that conversation do you recall telling her not to throw shit at you?

MR: Uh, I don't remember saying that but I know, I don't know if I said "shit" specifically, but if she would of, I probably would have said that, yes.

JS: Did you also tell Kissica that if she "put her ass in that car seat" you would arrest her for DUI?

MR: I don't remember those words verbatim, but I did tell her I would arrest her for DUI if she got behind the wheel of a car.

JS: Did you also tell Kissica that you were looking for a reason to take her to jail?

MR: Uh, very well could have.

JS: Okay. Have you, since the time of your response to [REDACTED] have you watched the video?

MR: I did not.

JS: Okay. Um, based upon my viewing of the video and I believe Lieutenant Myers as well, I can tell you that our observations were that those three statements were distinctly made to Ms. Seets. Are you . . .

MR: I'm not, I'm not . . .

JS: . . . just saying you don't remember that?

MR: . . . I'm not arguing that at all.

JS: Okay.

MR: I'm not saying that that's not the case. I just don't remember what I said verbatim. . .

JS: Okay.

MR: . . . few months ago.

JS: Alright. Did you ultimately arrest Kissica on domestic battery charges?

MR: Correct.

JS: And following her arrest, did you escort Kissica to a nearby squad car?

MR: I did.

JS: At the onset of that escort, did Kissica claim that she had a leg injury or limp while she was walking?

MR: I don't recall her making any allegations of an injury. Uh, the limping, she was more or less trying . . . if I remember correctly trying to have a conversation with her son maybe? Was trying to talk to him and I don't recall her limping at all. I'm not sure what the video shows but I don't remember that.

JS: Okay. Well the video shows that after you guys moved forward about four or five steps you pulled her forward by her arm in what looks to me to be in an attempt to get her to walk more quickly. Do you recall that?

MR: Probably when she was trying to have a conversation with her son, yes.

JS: Okay. And in response to you pulling on her, did she spit in your face?

MR: Correct. It hit me on my right side, right below my eye, beside my ear.

JS: Okay. Is there any reason why you didn't ask another officer to assume the escort from that point on so that you could promptly decontaminate yourself and remove yourself from what was becoming a volatile situation?

MS: It was my arrest and I was going to put her in the car. I'm not gonna have anybody else do my work for me.

JS: Okay. When you arrived at the back door of the squad car with Kissica, did you have difficulty placing her in the squad car?

MR: Correct.

JS: Did she resist you in your efforts to place her in the squad car?

MR: She did.

JS: And can you specifically describe how?

MR: I believe she was still trying to yell across the top of the car to her family. I told her to get in the car, she wouldn't, and she got rigid and stiff at the door. She started to kick back at me a little bit. And it looked like she was, you know, actively fighting me, but she would not get in the car.

JS: She was noncompliant?

MR: Correct.

JS: Okay. After placing Kissica in the back of the squad car, did you deliver a knee strike to her?

MR: Uh, watching the video with Lieutenant Myers, I didn't remember documenting it because, you know, in my mind a knee strike is when you take a step and drag your knee through someone. It was more of a jab I thought so it didn't really stand out in my memory whenever I was going back to . . . my report. But yes I did.

JS: Okay. And what prompted that knee strike? Or jab as you call it?

MR: Uh, her being rigid or refusing to get inside the car.

JS: Okay. So there was no . . .

MR: . . .

JS: . . . assaultive behavior on her part?

MR: I didn't, I didn't grab and pull her down.

JS: Right.

MR: You know, drive my knee through her. It was just a jab to get her attention to get her in the car.

JS: Okay. And as you mentioned, you did not document that knee strike in your official police report?

MR: I did not.

JS: And can you explain again why that was?

MR: Simply because I didn't remember doing it. Uh, I didn't take a step back, drive my knee through her, you know, to the point that she was hurt or on the ground, it was just a jab quick right at the thigh and I, I didn't remember doing it.

JS: Okay. And in your official police report, did you document Kissica's resistance to your efforts to get her in the squad car?

MR: I believe so.

JS: You believe so?

MR: I believe so.

JS: I believe the wording in your report was that she was placed under arrest and escorted to a nearby squad car without further incident.

MR: I don't recall. I mean, I'm sure you've probably got the report, you could look at it but if that's what I put, that's what I put. But I know I didn't document the knee strike.

JS: Reading from the bottom of the first page of your report, your supplemental report, it says "I escorted Kissica to Officer Canales' squad car without further incident."

MR: That's . . . put that and then at this time other officers secured Kissica in the squad.

JS: So you could clean the spit on your face?

MR: Right. Right.

JS: So would you agree that you didn't necessarily do a great job of articulating her resistance at the door of the squad car?

MR: Yeah. I would agree with that.

JS: Okay. For the next several questions, I want you to refer to the Champaign Police Department Rules, a copy of which I have provided to you for your reference during questioning. Rule 2(C)(1) states, "Employees shall make a prompt official written report of offenses investigated, observed, or known." Have you read and are you familiar with Rule 2(C)(1)?

TC: ...

JS: I'm sorry, 2(C)(1)? Yes.

JS: Okay, as it relates to your submission of the accident report in question, do you believe that your actions were in compliance with that rule?

MR: Uh initially. Um, I would say so. I was prompt. I know now the policy has changed and we do the accident report before the end of shift. Um, I probably should have done it a little bit faster. And on my second time I should have followed up with a supervisor just to make sure that it did go through.

JS: Okay. As it relates to the submission of the traffic citation for the report in question, do you believe that your actions were in compliance with that rule?

MR: Negative, no.

JS: Okay. As it relates to providing the parties involved in the accident with the necessary exchange information, do you believe that your actions were in compliance with that part of the rule?

MR: No.

JS: Rule 3(B)(1) states, in part, "In the performance of their duties, employees shall not use harsh, rude, overbearing, abusive, violent, profane, or indecent language or conduct." Have you read and are you familiar with that rule?

MR: I am.

JS: Did you violate Rule 3(B)(1) by using profanity while speaking with Kissica?

MR: I believe I did. If I did use profanity, that's what the video reflects.

JS: Did you violate Rule 3(B)(1) by telling Kissica that you were looking for a reason to take her to jail?

MR: She was a problem. Very volatile call. I would say no, I did not. I mean, I, I could see how it looks bad from a supervisor's standpoint but there was a lot going on at the scene that the video camera . . . so I would have to say no to that.

JS: Okay. Rule 5(C)(1) states, "Officers shall not mistreat persons who are in their custody by violating a provision of law or departmental directive." Have you read and are you familiar with Rule 5(C)(1)?

MR: Yes.

JS: Did you violate Rule 5(C)(1) by striking Kissica with your knee while she was handcuffed and seated in the back of a squad car?

MR: She wasn't seated in the squad car when the knee strike was delivered, she was still standing at the door. And I would say no, that I did not violate that policy.

JS: Okay. Rule 5(D)(1) states, "The use of physical force to accomplish a police task is restricted by law and departmental directive to that force which is reasonable and necessary under the circumstances." Have you read and are you familiar with Rule 5(D)(1)?

MR: Yes.

JS: And do you believe that your use of the knee strike against Kissica was reasonable and necessary under the circumstances?

MR: I would say yes and no. Yes in the fact that she was resisting my efforts to place her inside the car. I have a lawful reason to do so. I would no just because there was so many officers there I could have just removed myself from the scene and had somebody else do it. She's, but she's already so pissed off at me . . .

JS: Okay. Rule 5(A)(2) states, "Employee shall provide aid or furnish information consistent with police duty in accordance with law and departmental directive." Have you read and are you familiar with Department Rule 5(A)(2)?"

MR: Yes.

JS: With regards to your official police report pertaining to the arrest of Kissica, is that report truthful and accurate to the best of your current recollection?

MR: Yes.

JS: It is?

MR: I'm sorry. Five? Each employee shall provide? Which one are we talking about?

JS: 5(A)(2).

MR: Shall provide aid and furnish information consistent – yeah, I mean . . .

JS: Does, does your report properly document the knee strike?

MR: Oh. I, I didn't understand your question.

JS: Okay, I'm sorry.

MR: No. I do not recall doing it.

JS: Okay. Given your omission of information pertaining to Kissica's resistance and your subsequent delivery of a knee strike, do you believe that you furnished information in your report that was consistent with police duty and in accordance with departmental directive?

MR: . . .

JS: Specifically in regards to that part.

MR: It would be no because I didn't recall doing it and obviously it's a violation of policy, but like I said I didn't recall driving my knee through her stomach, or her back, or anything like that. It was just my knee, maybe six, seven inches.

JS: And what part of her body did your knee contact?

MR: It would have been her thigh.

JS: Her thigh?

MR: . . . by like by the . . . groin.

JS: So her right thigh.

MR: . . .

JS: . . . putting her in on the passenger side. Okay. Is there anything of a factual nature that you wish to add to your statement at this time?

MR: Regarding Kissica?

JS: Or the accident, either one.

MR: Um . . .

TC: I . . . ask one follow up question . . .

JS: Certainly.

TC: Um, just to make sure the record is clear. You, we talked about that you omitted certain information from your report, for example, the knee strike.

MR: . . .

TC: But, what was in the report, you, you, you wrote, that was all truthful and accurate?

MR: Correct.

TC: All right. So it's . . .

JS: Just could have been more complete, I think . . .

TC: Right, right.

JS: . . . is what I'm getting at. Okay.

TC: Do you want to add anything. Do you want to take a break?

MR: I'm fine.

TC: Okay.

JS: Okay. Lieutenant Myers, do you have any follow up questions?

TM: I think it's probably to clarify one point in this. When Lieutenant Swenson is asking about the knee strike, it's not when, and I've watched the video, so it's not when you're walking her around to the squad car, it's not standing at the door when you nudge her with your knee. I saw that. It's when she's in the car, you're standing at the door frame and then right when you back away to start wiping, wipe your face, is when that knee strike occurs.

MR: I don't recall that.

TM: Okay, that's, that's what we're referring to as . . .

MR: I thought . . .

TM: . . . knee strike.

MR: Okay, I, there was two then?

JS: Yeah.

MR: . . .

JS: The, the first one, I don't necessarily consider a knee strike . . .

MR: That's what I was referring to as a jab.

JS: Yeah, in my language, and these are my words, you're more kind of wedging her in the car.

MR: . . .

JS: After that occurs, there's a second one where you do take a step back and I believe it's with your right leg, that you take a step back and then you deliver what I would definitely call a knee strike.

MR: I'm sure the . . . was the camera on, facing her at the time?

JS: Uh, this was from another squad's video, but would it have been . . .

MR: I mean I'm not, I'm not trying to hide anything. I knew there was fifteen hot cameras out there. Mine being one of them. I just don't recall doing that.

JS: Okay. Would it help you at this point in time to go watch the video in question real quick?

MR: No. Not gonna change anything. I know you're not gonna sit here and make up a knee strike. I believe it.

JS: Okay. Okay. Anything else, Lieutenant?

TM: No.

JS: Lieutenant Shaffer? Any follow up questions?

DS: I have one. Um, and it's for verification. Just so we're clear. Um, March 3 is a Monday. I think I said it was a Saturday but it's a Monday.

JS: Okay.

DS: Then the question I have goes back to the accident report, specifically around question twenty-one about did you properly save and submit the report on its completion? Can you, can you describe the process that you use once you complete the report, how you close it out, how you save it?

MR: You hit validate and submit and it goes through. Then you just exit out of the program.

DS: Yeah. Is that the same process that you used each time?

MR: I believe so, yeah. Hit validate and submit, exit out of the program.

DS: Okay.

TM: And I'll follow up with that. Do you hit validate and submit and then a box pops up?

MR: Oh, I don't know, I've done like three accidents reports myself.

TM: And I know you don't do many on night shift, but okay. So you validate and submit and then you get a pop-up box that says report successfully submitted.

MR: Should, I think it does say that, I don't really. I know something pops up, but I don't know what it says.

TM: Right. So you click that pop-up and then it's out of the program.

MR: I just X out the program.

TM: Okay. Okay.

?: ...

TC: I think I just want to be clear, the ... you were asking questions about the knee strike ...

JS: Uh huh.

TC: . . . your understanding was what they were referring to uh . . .

MR: . . . most outside of the car . . .

TC: . . . you nudging her, right, nudging her into the car with your knee.

MR: Right.

TC: As you sit here today, you don't recall a second strike out . . .

MR: I mean I could watch the video, but I mean it's not gonna change anything . . .

TC: Right.

MR: I just don't recall . . .

TC: You're not denying it, you just don't recall it?

MR: No.

JS: All right. The time is approximately 1:54 p.m. We're going to take a very short recess and allow Officer Rush to watch the video in question real briefly.

Recording is paused.

Recording resumes.

JS: Okay, the time is approximately 2:02 p.m. It's still May 15th. All the same parties are in the room, we just stepped outside and into my office for a minute and allowed Officer Rush to view the videotape in question. You're acknowledging at this time that there was a knee strike that you delivered to Kissica?

MR: Yes.

JS: Okay. Ms. Cummings, at this point I would ask if you have anything you want to offer on Officer Rush's behalf?

TC: Uh, nothing further, other than I think he's been pretty . . . that's he's been pretty . . . he's answered and he's acknowledging when he made a mistake. Um, other than that I think he's covered everything.

JS: Okay.

TC: Anything else you need then?

DS: Can't think of anything else.

JS: All right, time's approximately 2:03 p.m. and at this point the interview will conclude.